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**MEMORANDUM**

CLIENT MATTER NUMBER  
071155 0101

**TO:** Mr Roy Q Lockett, Esquire

**FROM:** Cleta Mitchell, Esq

**DATE:** December 28, 2001

**RE:** Gormley for Senate Primary Election Fund, Alan C Staller, as Treasurer,  
Respondent in Matter Under Review 5020 ("MUR")

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Enclosed please find one original and one copy of the written response to the Reason to Believe Finding ("RTB") Please date-stamp and return the copy in the enclosed self-addressed envelope Thank you

Attachment(s)

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
JAN 23 2 38 PM '02

BRUSSELS  
CHICAGO  
DENVER  
DETROIT  
JACKSONVILLE  
LOS ANGELES  
MADISON  
MILWAUKEE  
ORLANDO  
SACRAMENTO  
SAN DIEGO/DEL MAR  
SAN FRANCISCO  
TALLAHASSEE  
TAMPA  
WASHINGTON, D C  
WEST PALM BEACH

FOLEY LARDNER  
ATTORNEYS AT LAW

December 28, 2001

JAN 23 2 38 PM '02

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

VIA FACSIMILE TO (202) 219-3923 /ORIGINAL Via U.S. MAIL

Mr. Roy Q. Luckett, Esq.  
Office of General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, D.C. 20463

Re. Gormley for Senate Primary Election Fund, Alan C. Staller, as Treasurer,  
Respondent in Matter Under Review 5020 ("MUR")

Dear Mr Luckett.

This is the written response to the Reason to Believe Finding ("RTB") issued by the Federal Election Commission ("FEC" or "Commission") on or about October 18, 2001, on behalf of my client, Gormley for Senate Primary Election Fund, Alan C. Staller, as Treasurer ("Respondent"). Pursuant to our telephone conversation in early December, this response is submitted timely pursuant to the extension of time granted for response.

Since being retained to represent Respondent, I have reviewed the multiple allegations contained in the RTB and have discussed the allegations, facts and circumstances with various persons and representatives of the entities involved at the time in an effort to reconstruct the actual facts of the allegations. Because these allegations involve facts and circumstances which took place nearly two years ago and involve a number of different persons in different locations of the country with varying degrees of knowledge of and information about the campaign, reconstructing the actual events is somewhat problematic. However, the continuing passage of time will only contribute further to the difficulties of reconstructing the actual events.

It is apparent from numerous discussions and interviews with various persons in positions to know what transpired in the campaign that many of the allegations of the Complaint and / or contained in the RTB are factually incorrect and wholly without merit. It is also clear that *no* deliberate violations of law occurred and *no* willful intent to violate the law took place or can

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202 835 8072

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cmitchell@foleylaw.com

CLIENT/MATTER NUMBER  
071155 0101

002 109504 1

Mr Roy Q. Lockett, Esq.  
December 28, 2001  
Page 2

any be inferred from these facts. Any violations of law were simple oversights or minor infractions. That being said, it can be concluded that certain provisions of the Federal Election Campaign Act ("FECA" or "the Act") and the Commission's regulations thereunder may have inadvertently been violated.

Attached please find a factual response to the allegations contained in the RTB in order to assist your office in ascertaining the actual facts and circumstances of the MUR. Some requests for guidance from the Commission are requested in order that Respondent can properly proceed in certain circumstances, as indicated

Based upon the factual review and in order to expedite resolution of this matter, I respectfully request on behalf of my client, Gormley for Senate Primary Election Fund, Alan C. Staller, as Treasurer, that the Commission at this time enter into negotiations for conciliation of this matter pursuant to a written agreement as authorized in 11 C.F.R. §111.18(d).

Thank you for your attention to this request. Please feel free to contact me if you have any questions or wish to discuss this further. I will look forward to your response.

Sincerely,



Cleta Mitchell, Esq.  
Counsel for Respondent

cc: Mr. Alan C. Staller, Esq.  
The Honorable William Gormley

**IN AND BEFORE THE  
FEDERAL ELECTION COMMISSION**

IN RE MATTER UNDER REVIEW 5020

**RESPONDENT:**

Gormley for Senate Primary Election Fund,  
Alan C. Staller, as Treasurer

Respondent Gormley for Senate Primary Election Fund, Alan C. Staller, as Treasurer hereby submits the following response to the Reason to Believe Finding ("RTB") issued herein by the Federal Election Commission.

**A. Allegations Involving Respondent and Donald Trump**

The Commission has speculated that the fundraising event at Mr. Trump's home cost in excess of \$2,000 thus triggering an excessive contribution violation. However, Respondent is advised by counsel for Mr. Trump that he has stated *under oath* and has documented that the cost of the event indeed was under the \$2,000 threshold for such events. Further, individuals from the Gormley campaign have reviewed the allegations and are confident that the assertions in the RTB are factually incorrect. Respondent advises the Commission that the event did *not* exceed the \$2,000 food/beverage threshold and thus there was no excessive contribution from Mr. Trump.

**B. Allegations Involving Respondent and Harrah's Entertainment, Inc.**

The Commission has alleged that Respondent engaged with Harrah's Entertainment, Inc. ("Harrah's") in a plan to violate the prohibition on use of corporate facilities for making of contributions to the Gormley campaign. The allegations are incorrect. The facts are as follows:

1. Two individuals who are now (or were at the times pertinent to the MUR) executives of Harrah's Entertainment, Inc. assisted the campaign in fundraising activities.
2. The two individuals were expressly authorized by the campaign to engage in the fundraising activities and were a part of the volunteer fundraising group for the campaign.
3. Both volunteers were members of the Harrah's restricted class.
4. We are advised by Harrah's that the persons solicited by the two Harrah's executives and those who actually contributed to the Gormley campaign as a result of the solicitations were members of Harrah's restricted class. The Commission's assertion in the RTB that certain of the 'job titles' do not 'appear' to be within the restricted class is without factual basis. It is Respondent's belief that all persons solicited by the two individuals and all who donated in response to the solicitation meet the requirements of the Commission's regulations at 11 C.F.R. § 114.1(c).
5. The individuals who engaged in the solicitation collected the contributions which were in turn provided to the Gormley campaign in accordance with 11 C.F.R. §110.6(b)(2).
6. No corporate facilities were used to collect the contributions. The individuals who solicited the contributions did receive and keep the checks in their offices until a person from the

Gormley campaign actually collected the contributions in accordance with the Commission's regulations.

**Analysis:**

Because only the restricted class was solicited, no violation of the Act occurred as a result of the solicitation pursuant to 11 C.F.R. § 114.1(a)(2)(i). The only potential violation would be the use by a corporate employee of his personal office to receive the contributions he had solicited -- however, Respondent submits that the regulations at 11 C.F.R. § 114.9(a) permit the isolated use of a person's office in a corporate building and that this instance falls within that permissible exception. It is Respondent's belief that the two individuals were not required to report as conduits or intermediaries because of their status under 11 C.F.R. § 110.6(b)(2)(i)(E). In an abundance of caution, however, conduit reports were filed with the Commission by the two individuals.

Further, the campaign, *not* the corporation, actually collected the contributions in order to avoid violation of the provisions of 11 C.F.R. § 114.2(f).

**C. Le Cirque Bellagio Fundraiser.**

**1. Travel.** Sen. Gormley's travel was *not* paid by any corporate entity. However, the airfare for Sen. Gormley's travel to and from the fundraising event was paid by a friend, Mr. Joseph R. Jingoli, Jr., who accompanied him to the event and never submitted a reimbursement request to the campaign. Mr. Jingoli also paid the airfare for himself and one other individual who attended the event. In addition, Mr. Jingoli contributed the maximum directly to the Gormley for Senate Primary Election Fund. Thus, the payment by Mr. Jingoli of the airfare for the three (3) individuals who attended the fundraising event constituted an excessive in-kind contribution and the campaign failed to report and/or return the contribution. A copy of the credit card statement which reflects the charges for the airfare is attached. The violation was inadvertent and Respondent seeks the Commission's guidance as to the appropriate remedy for the violation.

**2. Hotel Expenses.** Sen. Gormley paid his own hotel bill on a personal credit card, in the amount of \$220.34. The failure to report the in-kind contribution from Sen. Gormley to his own campaign was inadvertent.

**3. Value of the Fundraiser.** As evidenced by the response from MGM Mirage ("MGM"), the allegations regarding the nature of the event are incorrect. The fundraiser was not as elaborate as the Commission suggests in the RTB. Rather, the fundraiser was a daytime event, the \$1,000 food and beverage discount permitted by 11 C.F.R. § 114.1(a)(2)(v) was applied and the balance of \$1,718.51 was fully paid by the Gormley campaign. See the attached copies of the invoice from and the check paid to Bellagio for the event.

**4. Use of Corporate List by Gormley Campaign.** The Gormley campaign did not utilize any list(s) provided by the corporation. The persons who attended the event were invited by individuals hosting the event. The attendees brought campaign contribution checks to the event which were given to the candidate. The candidate asked the host to send the checks to the campaign office in order that the checks could be properly reviewed and screened by the

campaign staff, then processed. The contributions were not forwarded to the campaign for several days following the event. The amount of the checks forwarded to the campaign totaled \$28,000. The campaign returned one \$2,000 check to the donor which was not replaced by the donor. The report reflecting the contributions generated from the event which were filed by the Respondent with the Commission are accurate – the assertions from the *New York Times* article are not. An inaccurate news story which contains unfounded speculation should not be relied upon as the basis for pursuing further investigation of the event.

**Analysis:**

Although most of the allegations contained in the RTB regarding the Bellagio fundraising event are incorrect and constitute no violation of the Act or the Commission's regulations, there are two instances of technical violation of the Act.

(1) Receipt of an excessive contribution which was not returned to the donor by virtue of failing to reimburse the individual for the cost of the airfare to/from the fundraising event in Las Vegas. 2 U.S.C. §441a(a)(1)(A); 11 C.F.R. §110.1(b)

(2) Failure to report the in-kind contribution constituted by the payment of the airfare and the hotel expense. 2 U.S.C. §434; 11 C.F.R. § 104.13(a)(1).

**CONCLUSION**

Respondent acknowledges these two violations of the Act and the regulations and respectfully requests that the Commission enter into negotiations for conciliation of the MUR. Respondent advises that the violations were not discovered until the review of the allegations contained in the RTB was undertaken. The violations were inadvertent and *de minimis*. Respondent is aware that corrective action must be undertaken by Respondent in order to remedy the violations. Respondent seeks the Commission's guidance in this regard and requests that such remedy be included as part of the overall conciliation process.

Respectfully submitted,



Cleta Mitchell, Esq.  
Counsel for Respondent,  
Gormley for Senate Primary  
Election Fund, Alan C. Staller, as  
Treasurer

Foley & Lardner  
888 Sixteenth Street, NW  
Washington, D.C. 20006  
(202) 835-8072

December 28, 2001

# **ATTACHMENT # 1**

***Joseph R. Jingoli, Jr.  
Credit Card Receipt –  
Airfare for 3 persons to and from Las Vegas, Nevada***

Prepared For  
JOSEPH R JINGOLI JR

## Transactions Continued

Amount \$

February 2, 2000  
HERTZ CAR RENTAL SALT LAKE CTY UT

770.84

Enroll in Hertz #1  
Gold<sup>®</sup>, courtesy of the  
Platinum Card Call  
800-654-9998

Location  
Rental: SALT LAKE CTY UT  
Return: SALT LAKE CTY UT  
Agreement Number 938776461  
Renter Name: JINGOLI JOSEPH  
Reference Number: 025211

Date  
02/02/00  
02/07/00

February 4, 2000  
CARY TRAVEL CARY NC

1,601.00

AMERICA WEST AIRLINES  
From: PHILADELPHIA PA

To:  
LAS VEGAS NV  
PHILADELPHIA PA

Carrier: HP  
HP  
Class: YU  
YU

Ticket Number: 40177634928421  
Passenger Name: CORCORAN/G  
Document Type: PASSENGER TICKET

Date of Departure: 02/08

February 4, 2000  
CARY TRAVEL CARY NC

1,601.00

AMERICA WEST AIRLINES  
From: PHILADELPHIA PA

To:  
LAS VEGAS NV  
PHILADELPHIA PA

Carrier: HP  
HP  
Class: YU  
YU

Ticket Number: 40177634928454  
Passenger Name: JINGOLI/J  
Document Type: PASSENGER TICKET

Date of Departure: 02/08

February 4, 2000  
CARY TRAVEL CARY NC

1,601.00

AMERICA WEST AIRLINES  
From: PHILADELPHIA PA

To:  
LAS VEGAS NV  
PHILADELPHIA PA

Carrier: HP  
HP  
Class: YU  
YU

Ticket Number: 40177634928476  
Passenger Name: GORMLEY/W  
Document Type: PASSENGER TICKET

Date of Departure: 02/08

February 4, 2000  
FLIGHT INSURANCE CURRENT \$1,601.00

14.00

February 4, 2000  
FLIGHT INSURANCE CURRENT \$1,601.00

14.00

February 4, 2000  
FLIGHT INSURANCE CURRENT \$1,601.00

14.00

Continued on next page



## **ATTACHMENT # 2**

***William L. Gormley  
Credit Card Receipt –  
Payment of Hotel Bill in Las Vegas, Nevada***

Nov 29 2001 1 23PM  
VISA GOLD

No 3908 P 2/2

Closing Date: 03/02/00

Customer Name: WILLIAM L GORMLEY  
Account Number: [REDACTED]  
New Current

1924

## Account Summary

Page 1 of 1

Opening balance: [REDACTED]  
 Payments and credits: [REDACTED]  
 Charges and adjustments: [REDACTED]  
 Cash advances: [REDACTED]  
 ANNUAL CHARGES: [REDACTED]  
 Balance 03/02/00: [REDACTED]

Number of days in billing cycle: 30

Credit limit: [REDACTED]

Cash limit: [REDACTED]

Available credit: [REDACTED]

Available cash: [REDACTED]

Payment due date:

March 27, 2000

NEW MINIMUM PAYMENT DUE

\$64.00

## Transactions

Transaction Date	Posting Date	Reference Number	Description	Amount
03/00	02/00	# 24492400132R97135	MIRAGE HOTEL LAS VEGAS NV	\$220.34

## News From First Union

FOLLOWING OUR RECENT SYSTEMS UPGRADE, YOUR STATEMENT WILL  
 INDICATE THE NUMBER SHOWN ON YOUR CURRENT CARD AND A NEW  
 NUMBER. BOTH ACCOUNT NUMBERS ARE VALID UNTIL YOUR CARD  
 EXPIRES AND YOU RECEIVE YOUR NEW CARD.

GET A GREAT 7.5% ANNUAL PERCENTAGE YIELD ON A 30 MONTH CD OR  
 IRA UNTIL APRIL 15, 2000. CALL 1-800-974-7658. \*APY ASSUMES  
 INTEREST REMAINS ON DEPOSIT TO MATURITY. PENALTY FOR EARLY  
 WITHDRAWAL. FEES COULD REDUCE EARNINGS. MINIMUM DEPOSIT OF  
 \$1,000 (IRAs) AND \$15,000 (CDs) REQUIRED. MEMBER FDIC.

## Rate Summary

	Average daily balance	Periodic rate	CORRESPONDING ANNUAL PERCENTAGE RATE	ANNUAL PERCENTAGE RATE
Purchases	\$1,033.76	1.367%	16.40%	16.40%
Cash Advances	\$0.00	1.367%	16.40%	16.40%

# **ATTACHMENT # 3**

*Invoice from Bellagio event*

2025-04-24 14:44:44

11/28/2001 15:08 FAX  
11-28-2001 2:03AM

F&L SERVICE CTR

0004  
P. 4

NOV 28 2001 12:53PM

FROM  
LEVIN STALLER

NO. 9233 P. 4/4

11/28/2001 15:08 FAX

##:  
PURCHASING  
CICCO

INVOICE  
NO. 47723  
DATE 11/28/01

ITEM	DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL
1	1000	1	1000	1000
2	2000	2	2000	4000
3	3000	3	3000	9000
4	4000	4	4000	16000
5	5000	5	5000	25000
6	6000	6	6000	36000
7	7000	7	7000	49000
8	8000	8	8000	64000
9	9000	9	9000	81000
10	10000	10	10000	100000

TOTAL DUE  
175836

DATE  
11/28/01  
175836

Thank You  
Osteria del Cicc

175836

FEB-11-02 10:37 FROM

ID: 988887481

PAGE 2/2

[illegible][illegible]

NOV. 28. 2001. 12:52PM

LEVINE STALLER

NO. 9233 P 2/4

DEC 4 1999 12:15PM

NO. 7009 P. 2

**GORMLEY FOR SENATE - FEDERAL  
CHECK REQUEST**

1. Date 2/11/00
2. Pay to Del Lago  
3260 South Industrial Road  
Las Vegas, Nevada 89109
3. Amount \$1718.51
4. Purpose of expense event cost  
(2/9/00)
5. Authorization \_\_\_\_\_
6. Check (DO NOT COMPLETE)  
Check No. 1049  
Date 2-17-00
- G. A. L. J.*

Figure 1 is a schematic representation of the experimental design. It shows a flowchart with the following steps: 1. Selection of 100 subjects, 2. Random assignment to two groups (50 each), 3. Pre-test, 4. Training (10 sessions), 5. Post-test, 6. Follow-up (10 sessions), 7. Post-follow-up. The groups are labeled 'Group 1' and 'Group 2'.

Figure 1 is a schematic representation of the experimental design. It shows a flowchart with the following steps: 1. Selection of 100 subjects, 2. Random assignment to two groups (50 each), 3. Pre-test, 4. Training (10 sessions), 5. Post-test, 6. Follow-up (10 sessions), 7. Post-follow-up. The groups are labeled 'Group 1' and 'Group 2'.